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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,999	03/31/2005	Eiji Kasutani	P/1927-11	5396
2352 7590 12/10/2008 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			EXAMINER ANDRAMUNO, FRANKLIN S	
			ART UNIT 2424	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,999	Applicant(s) KASUTANI ET AL.	
	Examiner FRANKLIN S. ANDRAMUNO	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/24/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/19/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-2 are objected to because of the following informalities: These claims fail to describe an apparatus. The claims only mention function and no structure. Appropriate correction is required.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 and 40 are rejected under 35 U.S.C. 101 because this claim defines computer program embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized"). The examiner suggests amending the claim to embody the program on "computer-readable medium encoded with computer executable instructions" or equivalent in order to make the claim statutory (only if the suggested claimed subject matter is supported by the original disclosure). Any amendment to the claim should be commensurate with its corresponding disclosure.

Claims 9-25 and 36-52 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Processes’ under 35 U.S.C. 101”). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Response to Arguments

1. Applicant's arguments with respect to claims 1-52 have been considered but are moot in view of the submission of a non-final office action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gurner et al (US 6,072,537) in view of Maybury et al (US 6,961,954 B1). Hereinafter referred as Gurner and Maybury.

Regarding claim 1, Gurner discloses a video viewing system for viewing a desired video (**column 1 lines 55-60**), a second video produced by editing said first video such that at least one video is used in the second video (**column 1 lines 60-67**).

However, Gurner fails to teach videos of a first video group having a plurality of first group videos. Maybury teaches in (**column 16 lines 47-57**) pluralities of videos are clustered after a query for the most popular news. In addition, Maybury also teaches group having a plurality of second group videos (**column 17 lines 1-8 note that news is made up of edited videos from the first group**). Moreover, Maybury also teaches each video of said first video group is specified, whereby frequency-of-use of the specified video (**tag frequencies for the last 7 days in figure 18**). **It should be considered that (column 19 lines 26-36) disclose a user formulating and executing a keyword search including Boolean operators, named entity query, or named entity frequency plot. It should be pointed out that Figure 19 shows an example of how a search of a specific story or video is presented to a user and the frequency of tags are clearly indicated figure 19 of Maybury. Moreover, Maybury can classify scenes (112) and classify stories (133) using video analysis.)** in said video group is calculated and displayed (**column 16 lines 48-67**).

Therefore, it would have been obvious at the time of the invention to include the use of a frequency-of-use for a specific video. This is a useful inventive step because it acquires the frequency a specific program was displayed within a specified time.

1. Claims 2,14, 20, 26, 28, 41-43, and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurner et al (US 6,072,537) in view of Maybury et al (US 6,961,954 B1). Hereinafter referred as Gurner and Maybury.

Regarding claims 2, 14, 20, 26, 28, 41, and 47, Gurner discloses a video viewing system for viewing a desired first videos (**column 1 lines 55-60**), a second video produced by editing said first video such that at least one video is used in the second video (**column 1 lines 60-67**), a third video produced by editing said second video such that at least a second video is used in the third video (**column 4 lines 49-53**).

However, Gurner fails to teach videos of a first video group having a plurality of first group videos. Maybury teaches in (**column 16 lines 47-57**) pluralities of videos are clustered after a query for the most popular news. In addition, Maybury also teaches group having a plurality of second group videos (**column 17 lines 1-8**). Maybury also discloses a group having a plurality of third group videos (**column 17 lines 45-48** **discloses a story segment, matching extracted named entities are aggregated and the six most frequently occurring names, organizations, and locations identified within the story segment. This shows that 3 fields of frequency-of-use exist: names, organizations, and locations. Therefore, allowing a system to create**

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3 different groups of videos according to each classification). Moreover, Maybury also teaches each video of said first video group is specified, whereby frequency-of-use of the specified video **(tag frequencies for the last 7 days in figure 18 It should be considered that (column 19 lines 26-36) disclose a user formulating and executing a keyword search including Boolean operators, named entity query, or named entity frequency plot. It must be point out that Figure 19 shows an example of how a search of a specific story or video is presented to a user and the frequency of tags are clearly indicated figure 19 of Maybury. Moreover, Maybury can classify scenes (112) and classify stories (133) using video analysis.)** in said video group is calculated and displayed **(column 16 lines 48-67).**

Therefore, it would have been obvious at the time of the invention to include the use of a frequency of use of a media clip. This is a useful combination because the program is able to trigger an accurate estimate of how often a section of a movie has been watched. This information gathering helps producers realize the taste of a group of users.

Regarding claims 42 and 48, Maybury discloses the video viewing method according to claim 41, wherein the frequency-of-use of said specified video in said other video groups **(Tag Frequencies for the Last 7 Days in figure 18)** is calculated based on a used video section in other video groups of said specified video **(CNN, Simpson, etc in figure 18).**

Regarding claims 43 and 49, Maybury discloses the video viewing method according to claim 42, wherein said used video section is identified based on correlation information (**Correlation (120) in figure 1**) showing that each video section correlates to one video section of other video groups for each of a plurality of video groups (**Key Frame Selection (134) in figure 1**) having a series of correlations that at least one video of one video group is used to produce a video of the next video group (**Multimedia Database Management System (140) in figure 1**).

2. Claims 3,8-10, 13, 19, 25, 30, 35-36, 37, 40, 46, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurner et al (US 6,072,537) in view of Maybury et al (US 6,961,954 B1). Hereinafter referred as Gurner and Maybury.

Regarding claims 3, 9, 13, 30, 36, and 40, Gurner discloses a video viewing system for viewing a desired video (**column 1 lines 55-60**), a second video produced by editing said first video (**column 1 lines 60-67**), and a third video produced by editing said second video (**column 4 lines 49-53**). Gurner further discloses the video viewing system comprising: a first storage unit which stores as to enable retrieval of said first video group (**column 1 lines 58-59**). In addition, Gurner teaches a second storage unit which stores as to enable retrieval (**column 6 lines 50-58**). Moreover, Gurner teaches least one video being edited for use (**column 2 lines 42-48**) in the second video and at least one video of the second video group being edited for use (**column 2 lines 48-50 again news is made up of edited videos**) in the third video such that the videos of the first, second and third video (**column 4 lines 49-53**).

However, Gurner fails to teach video groups have said series of correlations. Maybury discloses in **(Correlations (120) in figure 1)** a form of correlation in a group of videos. In addition Maybury discloses mutual correlations obtained from said series of correlations **(column 6 lines 1-3)**. Moreover, Maybury teaches a frequency-of-use generation unit **(figure 18 of a Tag frequencies for the last 7 days. It should be considered that (column 19 lines 26-36) disclose a user formulating and executing a keyword search including Boolean operators, named entity query, or named entity frequency plot. It must be point out that Figure 19 shows an example of how a search of a specific story or video is presented to a user and the frequency of tags are clearly indicated figure 19 of Maybury. Moreover, Maybury can classify scenes (112) and classify stories (133) using video analysis.)** which is an indication of a recollection of the use of the last previous days. Maybury also discloses a specification of a video of any one video group of said first video group and second video group **(6 most frequent tags in figure 19)**. In addition, Maybury teaches the retrieval of a correlation with respect to said specified video from said second storage unit **(Correlation (120) in figure 1)** to generate frequency-of-use of said specified video in said second or third video group produced by use of said specified video based on the retrieved correlation **(Related Websites in figure 19)**. Lastly, Maybury also teaches a control unit which displays said frequency-of-use on a display unit **(Multimedia Database Management System (140))**.

Therefore, it would have been obvious at the time of the invention to include the use of a correlation of a group of videos. This is a useful combination because the correlation displays a comparison between different video groups.

Regarding claims 8, 19, 25, 35, 46, and 52, Maybury discloses the video viewing system according to claim 3, wherein said control unit **(multimedia database management system (140) in figure 1)** sorts and displays said frequency-of-use in any one of ascending order and descending order **(figure 16)**.

Regarding claims 10 and 37, Maybury discloses the video viewing method according to claim 9, wherein in said step d), generating said frequency-of-use **(Figure 9)** by identifying a used frame number of said specified video from said used video section **(Frames in figure 8)**, and counting said used frame number in all used video sections in said second or third video group produced by use of said specified video **(Frequency in figure 4)**.

3. Claims 4-7, 11-12, 15-18, 21-24, 29, 31-33, 38-39, 44-45, and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurner et al (US 6,072,537) in view of Maybury et al (US 6,961,954 B1). Hereinafter referred as Gurner and Maybury.

Regarding claims 4, 16, 22, 27, 29, and 31 Gurner discloses video viewing system for viewing a desired video **(column 1 lines 55-60)**, a second video produced by editing said first video such that at least one video is used in the second video **(column 1 lines 60-67)**.

However, Gurner fails to teach videos of a first video group having a plurality of first group videos. Maybury teaches in **(column 16 lines 47-57)** pluralities of videos are clustered after a query for the most popular news. In addition, Maybury also teaches group having a plurality of second group videos **(column 17 lines 1-8)**. Moreover, Maybury also teaches each video of said first video group is specified, whereby frequency-of-use of the specified video **(tag frequencies for the last 7 days in figure 18. It should be considered that (column 19 lines 26-36) disclose a user formulating and executing a keyword search including Boolean operators, named entity query, or named entity frequency plot. It must be point out that Figure 19 shows an example of how a search of a specific story or video is presented to a user and the frequency of tags are clearly indicated figure 19 of Maybury.** Moreover, Maybury can classify scenes **(112)** and classify stories **(133)** using video analysis.) in said video group is calculated and displayed **(column 16 lines 48-67)**. Maybury also shows each video section correlates **(correlation (120) in figure 1)** to one video section of other video groups for each of said first video group **(Broadcast detection (122) in figure 1)**, said second video group **(Commercial Detection (124) in figure 1)**, and said third video group **(Story Segmentation (126) in figure 1)**.

Therefore, it would have been obvious at the time of the invention to include the use of a frequency-of-use for a specific video. This is a useful inventive step because it acquires the frequency a specific program was displayed within a specified time.

Regarding claims 5, 21, and 32, Maybury discloses the video viewing system according to claim 4, wherein said frequency-of-use generation unit comprises **(Tag frequencies of the last 7 days in figure 8)**: a retrieval unit which, upon specification of a video of any one video group of said first video group and second video group **(figure 6)**, retrieves correlation information on said specified video from said second storage unit **(Correlation (120) in figure 1)** to identify a used video section of said specified video in said second or third video group produced by use of said specified video **(figure 13)**; and a frequency-of-use calculation unit which generates the frequency-of-use of said specified video in said second or third video group produced by use of said specified video based on said used video section **(tags in figure 19)**.

Regarding claims 6, 11, 15, 17, 23, 33, 38, 44 and 50, Maybury discloses the video viewing system according to claim 4, wherein said control unit graphs and displays the frequency-of-use **(tag frequencies of the last 7 days in figure 8)** of said specified video in said second or third video group produced by use of said specified video based on a video section of said specified video **(Video (304) in figure 13)**.

Regarding claims 7, 12, 18, 24, 34, 39, 45 and 51, Maybury discloses the video viewing system according to claim 6, wherein said control unit displays a pointer movable in a time axis direction of the video section of said specified video together with said graphed frequency-of-use **(frequency in figure 14)**, and displays said specified video from a time position indicated by said pointer when said pointer is operated **(date in figure 14)**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKLIN S. ANDRAMUNO whose telephone number is (571)270-3004. The examiner can normally be reached on Mon-Thurs (7:30am - 5:00pm) alternate Fri off (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571)272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2424